

§ 10.37

(12) To a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

(b) Any individual requesting access to his or her record or to any information pertaining to that individual which is contained within a system of records within the Department has access to that record or information unless the system of records within which the record or information is contained is exempted from disclosure in accordance with subpart G, provided, however, that nothing in this part is deemed to require that an individual be given access to any information compiled in reasonable anticipation of a civil action or proceeding. No exemption contained in subpart G of part 7 of the regulations of the Office of the Secretary is relied upon to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this part. Any individual who is given access to a record or information pertaining to him is permitted to have a person of his or her own choosing accompany him and to have a copy made of all or any portion of the record or information in a form comprehensible to the individual. When deemed appropriate, the individual may be required to furnish a written statement authorizing discussion of his record in the accompanying person's presence.

(c) *Medical records.* Where requests are for access to medical records, including psychological records, the decision to release directly to the individual, or to withhold direct release, shall be made by a medical practitioner. Where the medical practitioner has ruled that direct release will do harm to the individual who is requesting access, normal release through the individual's chosen medical practitioner will be recommended. Final review and decision on appeals of disapprovals of direct release will rest with the General Counsel.

(d) Any person requesting access to records or to any information pertaining to other individuals is not granted such access unless that person can show that he or she has obtained permission for such access from the individual to whom the record pertains, unless the request comes within one of

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the exceptions of paragraph (a) of this section.

[45 FR 8993, Feb. 11, 1980, as amended at 62 FR 23667, May 1, 1997]

§ 10.37 Identification of individual making request.

No record or information contained in a system of records is disclosed to an individual nor is any correction of a record in accordance with subpart E made at the request of an individual unless that individual demonstrates that he or she is who he or she claims to be. Normally, identity can be proven for individuals who appear in person by the presentation of an identifying document issued by a recognized organization (*e.g.*, a driver's license or a credit card) and which contains a means of verification such as a photograph or a signature. For requests by mail, the unique identifier used in the system should be included if known. Responses to mail requests are normally sent only to the name and address listed in the system of records. In the case of particularly sensitive records, additional identification requirements may be imposed. In such cases, these additional requirements are listed in the public notice for the system.

[45 FR 8993, Feb. 11, 1980, as amended at 62 FR 23667, May 1, 1997]

§ 10.39 Location of records.

Each record made available under this subpart is available for inspection and copying during regular working hours at the place where it is located, or, upon reasonable notice, at the document inspection facilities of the Office of the Secretary or each administration. Original records may be copied but may not be released from custody. Upon payment of the appropriate fee, copies are mailed to the requester.

[62 FR 23667, May 1, 1997]

Subpart E—Correction of Records

§ 10.41 Requests for correction of records.

Any person who desires to have a record pertaining to that person corrected shall submit a written request detailing the correction and the reasons the record should be so corrected.

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Requests for correction of records shall be submitted to the System Manager.

[62 FR 23667, May 1, 1997]

§ 10.43 Time limits.

Within ten days (excluding Saturday, Sunday, and legal holidays) of the receipt in accordance with § 10.41 of a request by an individual to amend a record pertaining to him, the receipt of the request is acknowledged in writing. If a determination is made to correct the record as requested, the correction is promptly made. If a determination is made not to correct a record the individual is informed promptly of the right to appeal in accordance with subpart F. If an appeal of a refusal to correct a record is in accordance with subpart F, a determination whether to correct the record is made within thirty days (excluding Saturday, Sunday, and legal holidays) of the receipt of the appeal unless, for good cause shown the Administrator concerned, or in the case of the Office of the Secretary, the General Counsel, extends such period. Where an extension is taken, the party taking the appeal is promptly notified of such fact.

§ 10.45 Statement of disagreement.

If a determination is made not to amend a record, the requester is informed of the right to file a concise statement setting forth the reasons for disagreement with the refusal to amend. In any disclosure containing information about which an individual has filed such a statement of disagreement, the portions of the record which are disputed are noted clearly and copies of the statement of disagreement provided. If the Administrator concerned or his or her delegee, or in the case of the Office of the Secretary, the General Counsel or his or her delegee, deems it appropriate, copies of a concise statement of the reasons for not making the amendments requested may be provided along with the statement of disagreement.

Subpart F—Procedures for Reconsidering Decisions not to Grant Access to or Amend Records

§ 10.51 General.

(a) Each officer or employee of the Department who, upon a request by a member of the public for a record under this part, makes a determination that access is not to be granted or who determines not to amend a record in a requested manner, gives a written statement of the reasons for that determination to the person making the request and indicates the name and title or position of each person responsible for the denial of such request and the procedure for appeal within the Department.

(b) Any person:

(1) Who has been given a determination pursuant to paragraph (a) of this section, that access will not be granted; or

(2) Who has been informed that an amendment to a requested record will not be made; may apply to the Administrator concerned, or in the case of the Office of the Secretary, to the General Counsel for review of that decision. A determination that access will not be granted or a record amended is not administratively final for the purposes of judicial review unless it was made by the Administrator concerned or his or her delegee, or the General Counsel or his or her delegee, as the case may be. Upon a determination that an appeal will be denied, the requester is informed in writing of the reasons for the determination, and the names and titles or positions of each person responsible for the determination, and that the determination may be appealed to the District Court of the United States in the district in which the complainant resides, or has his or her principal place of business, or in which the records are located, or in the District of Columbia.

(c) Each application for review must be made in writing and must include all information and arguments relied